

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**NICHOLAS GERARDI,**

**Plaintiff,**

**v.**

**HOME DEPOT,**

**Defendants.**

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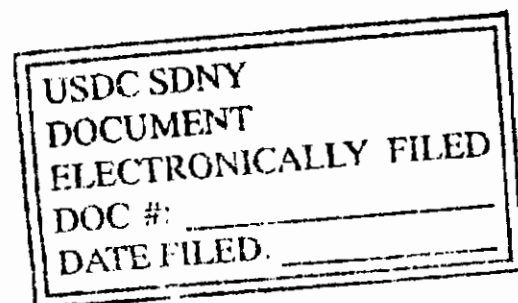
**08 Civ. 5616 (SCR) (LMS)**

**MEMORANDUM ORDER  
ACCEPTING REPORT  
RECOMMENDATION**

**STEPHEN C. ROBINSON, UNITED STATES DISTRICT JUDGE.**

Nicholas Gerardi filed this action alleging employment discrimination against his former employer, Home Depot. United States Magistrate Lisa Margaret Smith has issued a Recommendation and Report recommending that Mr. Gerardi's Complaint be dismissed for failure to effect service of process as required by Rule 4(m) of the Federal Rules of Civil Procedure. Under to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure Rules 72(b) and 6(d), the parties had a right to file objections to the Report and Recommendation within thirteen working days from March 5, 2009. The parties have not filed objections.

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C §636(b)(1)(C). To accept a Report and Recommendation to which no timely objection has been made, a district court need only satisfy itself that "there is no clear error on the face of the record." *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted).



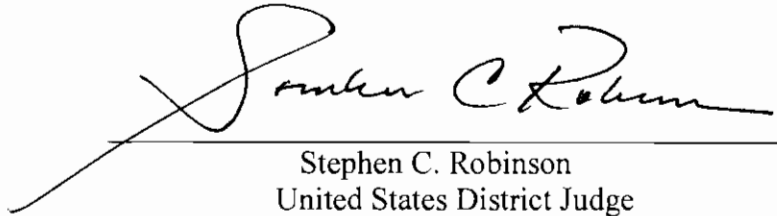
This Court has reviewed Judge Smith's Report and Recommendation and has determined that there is no clear legal error on the face of the record. Accordingly, this Court adopts the Report and Recommendation.

The Clerk of the Court is directed to close this case.

*It is so ordered.*

Dated: September 16, 2009

White Plains, New York



Stephen C. Robinson  
United States District Judge